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Attorneys for Plaintiff
United States of America

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSE RODOLFO MORENO ALBESTRAIN,
and
PEDRO CERNA ARIAS,

Defendant.

CASE NO. 2:21-CR-188-DJC

STIPULATION REGARDING EXCLUDABLE
TIME PERIODS UNDER SPEEDY TRIAL ACT;
ORDER

DATE: June 15, 2023

TIME: 9:00 a.m.

COURT: Hon. Daniel J. Calabretta

STIPULATION

Plaintiff United States of America, by and through its counsel of record, and defendant, by and through defendant's counsel of record, hereby stipulate as follows:

1. By previous order, this matter was set for status on May 8, 2023, before the Honorable Kimberly J. Mueller, and time was excluded through that date under Local Code T4. ECF No. 42.

2. On April 4, 2023, this case was reassigned to the Honorable Daniel J. Calabretta for all further proceedings. The previously scheduled May 8, 2023 status hearing was vacated and the parties were directed to "consult Judge Calabretta's webpage, select an available date on his criminal law and motion calendar, and set the matter for hearing before the reassigned judge." ECF No. 43.

3. By this stipulation, the parties request to set a status hearing for June 15, 2023, at 9:00 a.m., and to exclude time between May 8, 2023, and June 15, 2023, under Local Code T4.

4. The parties agree and stipulate, and request that the Court find the following:

a) The government has represented that the discovery associated with this case includes more than 650 pages of investigative reports and other documents, as well as numerous audio and video recordings. All of this discovery has been either produced directly to counsel and/or made available for inspection and copying.

b) Counsel for defendants desire additional time to review the discovery, conduct factual investigation, evaluate the charges in this case and potential defenses and resolutions, consult with their clients, and otherwise prepare for trial.

c) Counsel for defendants believe that failure to grant the above-requested continuance would deny them the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

d) The government does not object to the continuance.

e) Based on the above-stated findings, the ends of justice served by continuing the case as requested outweigh the interest of the public and the defendant in a trial within the original date prescribed by the Speedy Trial Act.

f) For the purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161, et seq., within which trial must commence, the time period of May 8, 2023 to June 15, 2023, inclusive, is deemed excludable pursuant to 18 U.S.C. § 3161(h)(7)(A), B(iv) [Local Code T4] because it results from a continuance granted by the Court at defendant's request on the basis of the Court's finding that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial.

5. Nothing in this stipulation and order shall preclude a finding that other provisions of the Speedy Trial Act dictate that additional time periods are excludable from the period within which a trial must commence.

IT IS SO STIPULATED.

1 Dated: April 11, 2023

PHILLIP A. TALBERT
United States Attorney

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3 /s/ DAVID W. SPENCER
DAVID W. SPENCER
Assistant United States Attorney

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5 Dated: April 11, 2023

/s/ David D. Fischer
David D. Fischer
Counsel for Defendant
JOSE RODOLFO MORENO
ALBESTRAIN

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7
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9 Dated: April 11, 2023

/s/ Christina DiEdoardo
Christina DiEdoardo
Counsel for Defendant
PEDRO CERNA ARIAS

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14 **FINDINGS AND ORDER**

15 IT IS SO FOUND AND ORDERED this 12th day of April, 2023.

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17 /s/ Daniel J. Calabretta
18 THE HONORABLE DANIEL J. CALABRETTA
UNITED STATES DISTRICT JUDGE